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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058543
Party	Plaintiff Edge Games Inc
Correspondence Address	MICHAEL L. LOVITZ LOVITZ IP LAW PC 8355 W. SUNSET BLVD., SUITE 314 WEST HOLLYWOOD, CA 90069 UNITED STATES trademarks@lovitziplaw.com
Submission	Reply in Support of Motion
Filer's Name	Michael L Lovitz
Filer's e-mail	trademarks@lovitziplaw.com
Signature	/michael l lovitz/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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EDGE GAMES, INC.	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No. 92058543
	:	
RAZER (ASIA-PACIFIC) PTE LTD	:	
	:	Attorney Docket No. E1002-9001
Registrant.	:	
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**PETITIONER’S REPLY TO
REGISTRANT’S BRIEF IN OPPOSITION TO
PETITIONER’S RESPONSE TO SHOW CAUSE ORDER**

Petitioner, Edge Games, Inc. (“Edge Games”) submits the following brief in reply to the brief filed by Razer (Asia-Pacific) Pte Ltd. (“Razer”) in opposition to Petitioner’s Response to the January 11, 2016 Order to Show Cause.

Despite the improper formatting and the ill-timed, questionable and unauthorized request to reset the discovery schedule contained therein, the document filed by prior counsel on behalf of Petitioner on February 9, 2016 in response to the Board’s Order to Show Cause provided sufficient facts and argument to support Petitioner’s contention that sanctions against Edge Games are not warranted, and that entry of judgment should not be entered against Edge Games as a result of the filing on December 8, 2015 of an Addendum to Petitioner’s Opposition to Registrant’s Motion for Judgment or in the Alternative to Compel Discovery and/or its January 8, 2016 communication with the Board requesting a telephone conference be held between the parties and the Interlocutory Attorney to discuss the possibility of filing motions in this action.

Nonetheless, in response to the filing by Registrant of its Brief in Opposition to Petitioner's Response, and in an effort to clearly, fully and completely respond to the Board's January 11, 2016 Order to Show Cause, Petitioner submits the instant reply brief.

A. Entry of Judgment Against Edge Games is Not Warranted

As noted by the Interlocutory Attorney, the Board has the discretion to consider whether sanctions are warranted Fed. R. Civ. P. 11 or, if the conduct in question does not fall with such Rule, the Board may do so under its inherent authority to manage cases on its dockets. *Carrini Inc. v. Carini SRL*, 57 USPQ2d 1067 (TTAB 2000), citing to *Chambers v. Nasco, Inc.*, 501 U.S. 32 (1991). However, it is well established that the Board's inherent power to enter sanctions "must be exercised with restraint and discretion." *Carrini* at 1071-72 (at fn. 3), citing to *Chambers*, 501 U.S. at 44. Petitioner submits that, once the relevant factors enumerated in *Carrini* are considered, the application of restraint and discretion is warranted in this case.

1. Petitioner Has Not Intentionally Acted in Bad Faith

Prior to January 20, 2016, Petitioner pursued the instant action on a *pro se* basis, and Petitioner's CEO, Tim Langdell ("Langdell"), was directly responsible for all activities in connection with this proceeding, including the preparation and filing of documents and all communications with the Board and the opposing party. Declaration of Tim Langdell ("Langdell Dec."), attached hereto as Exhibit 1, at ¶ 4. In fact, Petitioner had on more than one prior occasion proceeded with actions before the Board on a *pro se* basis, and in each such instance it was Langdell who had represented Petitioner in all such prior proceedings before the Board. Langdell Dec. at ¶ 5.

As a result of these prior undertakings, Langdell believed that his prior experience before the Board provided him with sufficient knowledgeable and familiarity with the Board's rules and procedures to allow him to competently represent Petitioner in the instant proceeding. *Id.*

All filings made by, and actions undertaken by, Landell on behalf of Petitioner during the course of this proceeding have been done with the intention of complying at all times with the rules and regulations of the Board. Langdell Dec. at ¶ 6. Langdell's activities were also undertaken with full knowledge of, and in a good-faith effort to follow, any additional restrictions or requirements that might have been contained in any orders issued by the Board during the course of the proceeding. Id. To the extent that Petitioner undertook any action that was not in full compliance with any of the Board's rules, procedures or orders, such failure to comply was entirely unintentional. Langdell Dec. at ¶ 7.

Nonetheless, despite his best efforts to remain in full compliance, it became apparent to Langdell as a result of the Board's issuance of an Order to Show Cause that it would actually be in Petitioner's best interest for Langdell to cease operating on a *pro se* basis and to instead secure the assistance of a qualified trademark attorney who could assist Petitioner in the instant cancellation action. Langdell Dec. at ¶ 8. Langdell therefore searched for and engaged Gregory Richardson to represent Petitioner in this cancellation action. Langdell Dec. at ¶ 9. Given the current status of the proceeding, it was important to Petitioner that whoever they engaged be experienced in Board proceedings and be able to represent Petitioner fully and properly in this cancellation, and eliminate any question as to Petitioner's intention to comply with all rules, procedures and orders of the Board. Langdell Dec. at ¶ 9. Mr. Richardson represented to Langdell that he possessed the required knowledge and competence Petitioner had sought, so he was engaged by Petitioner to represent it in this matter. Langdell Dec. at ¶ 11. He then prepared and filed a document in response to the Board's January 11, 2016 Order to Show Cause. Id.

Unfortunately, it was only after Mr. Richardson completed the aforementioned filing and Langdell read the Registrant's February 16, 2016 brief in opposition to Petitioner's filing that he realized Mr. Richardson has misled him as to the extent of his experience in practicing before the

Board. Langdell Dec. at ¶¶ 12, 13. Specifically, Langdell discovered that the document filed by Mr. Richardson contained numerous deficiencies and missteps, including failing to properly format the document, omitting a title on the document, and ignoring the Board's prior orders. Langdell Dec. at ¶ 13. The February 9 document also contained a request for extension of time to respond to discovery, the inclusion of which was neither requested nor suggested by Petitioner. Langdell Dec. at ¶ 17. The inclusion of this unconsented motion to extend the time for responding to discover was not authorized by Petitioner. Further, as it is Petitioner's contention, as reflected in the February 9 filing, that discovery had been completed at the time of such filing, there was no reason for Petitioner to include such a request in that filing. Langdell Dec. at ¶ 19.

It became clear to Petitioner after reviewing Registrant's February 16, 2016 filing that Mr. Richardson lacked an attention to detail and failed to fully review and familiarize himself with the file of the proceeding before undertaking the preparation and filing of the February 9 document. Langdell Dec. at ¶ 20. Upon becoming aware that Mr. Richardson had apparently misled Petitioner as to his degree of experience before the Board and his understanding of Board practice, Petitioner discharged Mr. Richardson and instructed him to file no further documents in this proceeding. Langdell Dec. at ¶ 15. Petitioner then once again undertook to locate trademark counsel who possessed verifiable familiarity with the Board and its procedures and rules. Langdell Dec. at ¶ 16.

Petitioner at all times while operating on a *pro se* basis attempted in good faith to be fully compliant with the Board's rules, procedures and orders, and took proactive steps once it became apparent that legal counsel would be necessary to best undertake the steps necessary to successfully complete the instant proceeding. Then when recognizing that initial outside counsel misrepresented his experience and abilities, Petitioner took immediate steps to secure substitute counsel. These actions by Petitioner clearly demonstrate that Petitioner has not intentionally acted in bad faith, but instead sought to act properly and in good faith throughout this cancellation proceeding.

2. Petitioner Believed it Was in Compliance and Did Not Intentionally Disobey the Board's Orders

Petitioner sought at all times to be in compliance with the Board's orders, including the order of January 30, 2015 (the "Prior Order"), and no action taken by Petitioner was intended to waste resources or otherwise act in a bad faith manner. Langdell Dec. at ¶ 21. Neither the December 8, 2015 filing of an Addendum nor the January 8, 2016 communication with the Board were believed, or intended, to be in contravention to the Prior Order.

The December 8, 2015 Addendum document filed by Petitioner was intended to supplement Petitioner's previously filed Opposition to Registrant's Motion for Judgment or in the Alternative to Compel Discovery. Langdell Dec. at ¶ 22. Rather, the purpose for this filing was to highlight the fact that Registrant's Motion for Judgment (and the attendant request to suspend the proceeding) was filed on the eve of Registrant's discovery response deadline. *Id.* Petitioner believed the timing of Respondent's filing of its Motion was suspect and an attempt to "work the system" in order to skirt its discovery obligations, and the purpose of the Addendum was to highlight the timing of the document. Langdell Dec. at ¶ 23. In filing the Addendum, Petitioner intended merely to point out the applicability of sanctions in the event that the Board was to determine Registrant's filing was an inappropriate attempt to delay the proceeding and an abuse of the Board's processes. Langdell Dec. at ¶ 24.

The document was not intended to be viewed or treated as a separate, unconsented motion. Langdell Dec. at ¶ 22. Petitioner was familiar with other filings made in Board proceedings wherein a party responding to a motion to compel and for sanctions had requested in its response brief that sanctions instead be imposed on the moving party, and yet such request was not considered by the Board to be a separate motion. Langdell Dec. at ¶ 23. As the request for sanctions noted in Petitioner's Addendum focused only on the filing by Registrant of its Motion for Judgment, at no time did Petitioner believe that the December 8 filing was a separate or unconsented motion, nor

did Petitioner ever intend that the Addendum it filed would be treated as a separate motion.

Langdell Dec. at ¶ 24.

As to Mr. Langdell's January 8, 2016 *ex parte* communication, as has previously been stated in Petitioner's February 9 filing, the communication was not intended to be a violation of the Prior Order. Langdell Dec. at ¶ 25. Mr. Langdell believed that his manner of communication was comparable to his earlier *ex parte* communications with the Interlocutory Attorney, including those in April 2015 and on October 5, 2015. *Id.* In making the January 8 communication, Mr. Langdell did not intend to disregard or disobey the Prior Order; rather, it was believed Petitioner was acting in compliance with the Prior Order by requesting the joint telephone conference with the Interlocutory Attorney and Registrant's counsel. Langdell Dec. at ¶ 26. Petitioner never intended to willfully disobey an order of the Board. Langdell Dec. at ¶ 28.

3. The Activities Which Are the Subject of the Show Cause Order Generated No Delays in the Proceeding

The filing of the Addendum to Petitioner's Opposition to Registrant's Motion for Judgment which was submitted on December 8, 2015 was never intended to be (or be viewed as) a separate, unconsented motion, and was expected to cause any delays in the instant proceeding. Langdell Dec. at ¶ 22. The purpose behind filing the Addendum was request that the Board permit Petitioner to incorporate a lingering thought that had been omitted from its brief filed in Opposition to the Registrant's Motion for Judgment. The substance of the Addendum, had it been included with the Opposition document, was the same as had been seen by Petitioner in responses to other motions to compel and for sanctions (and not treated as a separate motion), and included a potential penalty in the event the Board found the Registrant's timing of its filing to be an abuse of the Board's rules of procedure. Langdell Dec. at ¶ 23. The December 8, 2015 filing did not alter or delay the briefing schedule for the Motion for Judgment or the proceeding as a whole.

Similarly, Petitioner's January 8, 2016 communication was not intended or expected to cause delays in the proceeding; rather, the communication was initiated in order to permit the parties to discuss the potential scheduling of Petitioner intended filing of a motion for summary judgment and/or a motion by Petitioner to compel discovery responses by Registrant. Langdell Dec. at ¶ 27. Because the proceeding was already suspended, Petitioner saw no reason to believe that requesting the scheduling of such a call would cause any delays to the proceeding. In fact, it was believed by Petitioner that by scheduling the telephone conference during the suspension, it would help avoid delays that might otherwise arise if it were to be held outside the suspension period. *Id.*

4. The Issuance of the Show Cause Order Was Sufficient to Prevent Further Noncompliance

Petitioner had at all times attempted to act in good faith in its pursuit of the instant cancellation action, and to comply with all procedures, rules and orders of the Board. Langdell Dec. at ¶ 6. Nonetheless, as a result of the Order to Show Cause, Petitioner has recognized that it would be in its best interest to secure experienced trademark counsel, and proceeded with hiring trademark counsel. Langdell Dec. at ¶ 8, 9. Although their initial choice for attorney misrepresented his level of experience before the Board, Petitioner believes it has now found and engaged trademark counsel who is well versed in the Board's rules and procedures, and in doing so expects to avoid any future issues of non-compliance. Langdell Dec. at ¶ 16. Petitioner's actions demonstrate the steps it has taken to reform and avoid any future activities that could in any way be deemed to be improper, obstructive or disruptive to this cancellation action. Langdell Dec. at ¶ 29. Petitioner therefore submits that no further sanctions are necessary under the relevant law.

B. Petitioner Believes it Has Fully Responded to All Discovery Requests

Sections 2 and 3 of Registrant's Brief in Opposition to Petitioner's Response to the Show Cause Order are not germane to the issues raised in the Order to Show Cause. Petitioner will nonetheless state in response to those Sections that it has, on information and belief, responded

fully to all of Registrant's discovery requests and produced all responsive, non-privileged documents. To the best of Petitioner's knowledge, Petitioner has responded in full to all of the Requests for Admission and Interrogatories served by Registrant, including Interrogatories 8(e) and 12(d)-(f). Langdell Dec. at ¶ 36. Petitioner is aware of no other deficiencies in its responses to Registrant's discovery requests. Langdell Dec. at ¶ 36. To the best of its knowledge and belief, all discovery disputes involving Petitioner's discovery responses have been addressed and resolved. Langdell Dec. at ¶ 37.

With respect to the production of documents, the only documents that Petitioner had intentionally withheld from production were the Settlement Agreement and License between Petitioner and Velocity Micro Inc., which documents were withheld based on a good-faith belief they could not be produced due to the documents' confidentiality requirements. Langdell Dec. at ¶ 30. Specifically, I understood that the Velocity documents could not be produced absent an order by a court, Langdell Dec. at ¶ 30, and because Registrant had not obtained such a court order, it was Petitioner's obligation to withhold their production. Langdell Dec. at ¶ 31. However, after consulting with trademark counsel, Petitioner came to recognize that although the documents are commercially sensitive, the confidentiality obligation contained in the documents would not prevent their production in the instant case. Langdell Dec. at ¶ 32.

That Petitioner did not believe that its refusal to produce the Velocity documents was an intentional disobeying of the Prior Order nor an attempt to withhold discoverable information. Langdell Dec. at ¶ 33. In fact, Petitioner took the extra step of providing Registrant with a declaration obtained from Velocity Micro Inc. explaining the nature of the license and the relationship between the parties. Id. Now that Petitioner's misunderstanding has been cleared up, it is producing the Velocity documents to Registrant, Langdell Dec. at ¶ 32, along with additional

documents that recently have been located as part of Petitioner's ongoing search for responsive documents. Langdell Dec. at ¶ 34.

C. Conclusion

Petitioner believes that the filing on December 8, 2015 of its Addendum and the ex parte communication of January 8, 2016 do not warrant the imposition of sanctions. To the extent that Petitioner and its CEO were overly zealous in their advocacy to persuade the Board that Registrant has attempted to "work the system" and sought to further delay their obligation to provide responses to Petitioner's outstanding discovery, Petitioner submits that its activities nonetheless do not rise the level of meriting sanctions, and particularly such extreme sanctions as dismissing the instant case.

Further, Petitioner has continued to produce documents responsive to Registrant's discovery requests, including its ongoing search to locate responsive, non-privileged documents for production to Registrant. The fact that Petitioner continues to act in good faith and has additionally taken steps to make certain that it does not in the future step outside the bounds of the Board's rules or any of the prior order issued herein weigh against sanctions being imposed, demonstrates Petitioner's ongoing efforts to satisfy its obligations under the rules, procedures and orders of the Board. Further, its engagement of effective trademark counsel proves Petitioner's intention to reform any behavior that may previously have strayed beyond such boundaries unintentionally.

In light of the above, the fact that Petitioner has always attempted to act in good faith, and in view of the proactive steps that have been taken by Petitioner to avoid any future breaches of the relevant rules, procedures or orders of the Board, Petitioner submits that, under the relevant factors enumerated in *Carrini*, the application of restraint and discretion by the Board is warranted in this case, and that it is not necessary for the Board to sanction Petitioner.

Dated: March 7, 2016

Respectfully submitted.

/michael l lovitz/
Michael L. Lovitz, Esq.
Lovitz IP Law PC
8335 W. Sunset Blvd., Ste. 314
West Hollywood, CA 90069
(323) 337-9088
trademarks@lovitziplaw.com

Attorneys for Registrant

EXHIBIT 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

EDGE GAMES, INC.	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No. 92058543
	:	
RAZER (ASIA-PACIFIC) PTE LTD	:	
	:	Attorney Docket No. E1002-9001
Registrant.	:	
	:	

DECLARATION OF REV. DR. TIM LANGDELL

I, Tim Langdell, hereby state as follows:

1. This declaration is made in support of Petitioner's Reply to Registrant's Filing of February 16, 2016 in the above-captioned matter.
2. The matters set forth in this declaration are based on my personal knowledge, except where otherwise indicated, and if called as a witness I could and would testify competently thereto.
3. I am the CEO of Petitioner Edge Games, Inc. ("Petitioner").
4. Prior to January 20, 2016, Petitioner represented itself on a *pro se* basis in this proceeding before the Trademark Trial and Appeal Board (the "Board"), and in my capacity of CEO I was directly responsible for all activities in connection with this proceeding, including preparing and filing documents on behalf of Petitioner and all communications with the Board and the opposing party.
5. Petitioner has been involved on a *pro se* basis before the Board on more than one prior occasion, and in each instance, I was directly and entirely responsible for all actions and activities undertaken on behalf of Petitioner in connection with such proceedings. As a

result, I believed myself to be sufficiently familiar with the Board's rules and procedures so as to undertake such activities again for this cancellation proceeding.

6. At all times during this proceeding, I made every effort to comply with the Board's rules and procedures, and operate within their confines, as well as to follow any additional obligations or restrictions which may have been placed upon Petitioner through the issuance of orders by the Board. My activities were undertaken in a good-faith effort to fulfill my obligations under the Board's rules, procedures and orders.

7. To the extent I was not able to fully comply with any of the foregoing requirements, rules, restrictions or obligations, any such failure was entirely inadvertent. At no time during this proceeding did I believe that any action I was undertaking was in violation of the Board's rules or procedures, nor that any of my actions were in violation of any of the Board's orders.

8. Despite my prior experiences concerning proceedings before the Board, in January 2016, it became evident to me that it would be in Petitioner's best interest to secure the assistance of experienced trademark counsel in order to secure the best possible outcome in the instant cancellation proceeding.

9. On or about January 20, 2016 Petitioner acted in good faith by seeking counsel to assist in the instant cancellation proceeding and hiring attorney Gregory Richardson to represent it in this matter.

10. Mr. Richardson represented himself to me as a highly experienced trademark attorney who had handled many cases before the Board. It was important to Petitioner that it be represented by an experienced trademark attorney so that Petitioner's interests could be represented fully and properly, and so that there would be no questions as to Petitioner's compliance with all rules, procedures and orders of the Board.

11. Richardson led me to believe that he was knowledgeable and competent with respect to practice before the Board, which resulted in my hiring of him to represent Petitioner in this matter. Richardson then proceeded in drafting a response to the Board's January 11, 2016 Order to Show Cause and filing such document on February 9, 2016.

12. Unfortunately, I was surprised to find out that Mr. Richardson had misled me concerning his level of experience before the Board.

13. It was only upon reading Registrant Razer's February 16, 2016 filing that I discovered Richardson did not possess the necessary level of experience before the Board. Specifically, the February 16, 2016 filing identified a number of deficiencies and missteps in Richardson's initial substantive filing on Petitioner's behalf, including ignoring the Board's prior orders and even basic errors such as incorrectly formatting his document and omitting the title on the document he filed.

14. Given my understanding that Richardson was well versed in Board procedure, I had no reason to suspect that his filing would be in violation of the TBMP or that he would file any documents that were contrary to the Board's prior rulings in this matter.

15. Once I became aware that Richardson in fact lacked the experience necessary to properly represent Petitioner in this proceeding, I immediately discharged Richardson, instructing him to make no further representation or filing on behalf of Petitioner, and sought new counsel.

16. I have now identified current counsel who I have verified is well familiar with TTAB procedures and rules and can properly operate thereunder to provide the necessary assistance to Petitioner in this case.

17. As to attorney Richardson's inclusion of a request for an extension of time for discovery in the filing he did on behalf of Petitioner on February 9, 2016, I can only say that its inclusion was not requested, suggested or authorized by Petitioner, and that I am mystified by the inclusion of the same in the February 9 filing.

18. I did not authorize Richardson to make an unconsented motion nor did I authorize him to make such a request for discovery extension.

19. Further, it is Petitioner's position, as stated in the February 9, 2016 filing, that it has completed all discovery requested by Registrant; thus Petitioner would have no reason to ask for any extension at this time.

20. Given the February 9, 2016 document was not properly formatted, contained no headings or subheadings, and had no title, I can only presume that Richardson lacked an attention to detail, that he failed to fully review and familiarize himself with the pleadings and the orders issued by the Board, and that he did not properly prepare himself before becoming involved in the case.

21. With respect to the Board's Show Cause Order of January 11, 2016, the undersigned again states that he has not intentionally sought to harass Registrant, to waste Registrant's or the Board's resources, to cause unnecessary delay or needlessly increase the costs in this action, or to otherwise act in bad faith with respect to this proceeding.

22. The filing I submitted on December 8, 2015 was intended merely to be an addendum to Petitioner's previously filed Opposition to Registrant's Motion for Judgment or in the Alternative to Compel Discovery. I was not intending that this filing would be viewed or treated as a new or unconsented separate motion for sanctions; rather, I was intending only to point out that Registrant's Motion for Judgment was filed on the eve of their deadline for responding to Petitioner's discovery requests, and by suspending the

proceedings, I believed that Registrant was improperly seeking to avoid its discovery obligations, keeping Petitioner from receiving the requested information and documents.

23. By highlighting for the Board my belief that Registrant was “working the system” through its filings, and further delaying its compliance with Registrant’s discovery obligations, I hoped that the Interlocutory Attorney would hold Registrant to the same high standards as Petitioner when it came to the obligations of the parties in this proceeding, and would consider the applicability of sanctions on Registrant if their actions fell short of such standards. Additionally, I am familiar with other Board filings where a party responding to motion to compel and for sanctions had requested in its response brief that sanctions instead be imposed on the moving party, and such request in the response filing was not considered by the Board to be a separate motion.

24. My intention with the December 8, 2015 filing was merely to point out that if the Board did suspend the proceeding as had been requested by Registrant, and then were to find that Registrant’s Motion was not warranted, that the Board should consider all of the actions available to it, including the imposition of sanctions due to Registrant’s inappropriate acts in delaying this proceeding. Because the request for sanctions focused only on the filing by Registrant of its Motion, I did not believe the filing of my requested addendum on December 8 was (or would be perceived to be) a separate unconsented motion.

25. With respect to my January 8, 2016 *ex parte* communication, as previously stated, I regret that any of my activities in my efforts to communicate with the Interlocutory Attorney did not comply with or otherwise violated in any way the January 30, 2015 Order (the “Prior Order”). I believed that my communication on January 8, 2016 was done in a manner comparable to my earlier *ex parte* communications with the Interlocutory Attorney, such as back in April 2015 and on October 5, 2015.

26. My January 8, 2016 communication was not done with disregard to, nor intended to in any way disobey, the Prior Order; rather, I believed I was following the Prior Order by requesting a joint telephone conference with Registrant's counsel in order to request permission to file a Motion to Compel and/or a Motion for Summary Judgment. I further believed that the filing of either (or both) of these motions would be warranted under the facts of the case and the relevant case law.

27. Further, the January 8, 2016 communication was not intended to cause delay in the instant proceeding; in fact, the request was made with the thought of taking advantage of the suspension of the proceeding. The request for a telephone conference was to permit the parties to discuss the possibility of Petitioner filing motions, which filings would not occur until after conclusion of the suspension. Thus it was my belief that holding such a telephone conference during this period would avoid any delays that could result from requesting and holding such a conference outside of the suspension period.

28. As noted above, I have never intended to willfully disobey an order of the Board, and Petitioner has now engaged competent trademark counsel in order to prevent any further missteps or misunderstandings of Board procedure.

29. I believe that sanctions of any kind, and particularly the extreme sanction of entry of judgment against Petitioner, are not warranted under the current circumstances. As noted above, Petitioner has taken steps, including the hiring of trademark counsel (and, upon determining that initially hired counsel misled me as to his experience and ability to properly represent Petitioner, proceeding with locating and hiring new trademark counsel with a history of practicing before the Board) in order to make certain that the Board's rules and Orders are fully and properly followed in moving forward with the instant proceeding,

and demonstrating that Petitioner is fully committed to reforming and avoiding any future activities that could be viewed as improper, obstructive or disruptive to this proceeding.

30. With regard to the production of documents, I sincerely believed that I had fully cooperated with all Petitioner's discovery obligations, based on advice previously provided to me, and that I was complying with the confidentiality obligations contained in the Velocity Micro Inc. Settlement Agreement and License, as well as the spirit and intention of those documents, which I believed mandated such documents not be disclosed by any party unless ordered to do so by a court.

31. Because no such court order had been obtained by Registrant, I believed that the withholding of those documents was not only appropriate, but my obligation.

32. My new counsel, upon reviewing such documents, has now explained that my understanding and prior advice was, unfortunately, not completely accurate. Now that this misunderstanding has been clarified for me, Petitioner is producing these Trade Secret/Commercially Sensitive documents to counsel for Registrant and is forwarding them along with the service copies of this reply brief.

33. The withholding of these documents prior to this time was not intentional, nor was it done with the intent to prejudice the Registrant. In fact, Petitioner previously provided Registrant with a declaration from Velocity explaining the nature of the license and the relationship between the parties.

34. In addition, Petitioner has now located a copy of its 1996 settlement and license agreement with Future Publishing, and is likewise producing copies of these Trade Secret/Commercially Sensitive documents to counsel for Registrant.

35. On information and belief, the production to Registrant of the Velocity documents and the 1996 Future Publishing documents now completes the production by

Petitioner of all documents requested by Registrant that Petitioner currently has in its possession or control (although Petitioner continues in its ongoing efforts to locate any other documents responsive to Registrant's Requests for Production). In the event Petitioner locates any additional responsive documents, they will be produced as required under the Rules.

36. I confirm that, to the best of my knowledge and belief, Petitioner has responded fully to Registrant's Interrogatories 8(e) and 12(d)-(f), certainly by what was written in Petitioner's December 29, 2015 filing. I note that since that December 29, 2015 filing by Petitioner, Registrant has not identified to me, as far as I am aware, any deficiencies in Petitioner's responses to these interrogatories, which I now believe to be responded to in full.

37. On information and belief, all discovery disputes arising from Petitioner's responses to Registrant's discovery requests have now been fully addressed and resolved, and there are no remaining discovery requests of which the Board could be asked to compel completion.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date: March 7, 2016

By: /s/ Tim Langdell
Rev. Dr. Tim Langdell

CERTIFICATE OF SERVICE

I, Michael L. Lovitz, hereby certify on this 7th day of March, 2016, that a true and correct copy of the foregoing Petitioner's Reply To Registrant's Brief In Opposition To Petitioner's Response To Show Cause Order was served upon counsel of record for Respondent via certified mail, postage prepaid, at the following address:

Keith A. Barritt, Esq.
Fish & Richardson PC
P.O. Box 1022
Minneapolis, MN 55440-1022

/michael l lovitz/
Michael L. Lovitz, Esq.